

Responses to the Legislative Commissioners' Office (LCO) Report on

Legislative Regulations Review Committee No. 2013-30

LCO Comment	Action Taken in Response to LCO Report
<i>Substantive Concerns</i>	
Section 26-67e-3(a)(5), the regulation adds a provision authorizing periodic inspections. Although it seems that such inspections would be conducted by the commissioner, such intent is not clear since the regulation does not indicate who would conduct such inspections.	Section 26-67e-3(a)(5) has been revised to read as follows: <u>...and consent to periodic inspections, by the commissioner or the commissioner's duly designated agents, without prior notice, and at any reasonable time of day, of all facilities, equipment and raptors used for falconry;</u>
Section 26-67e-3(f), the regulation provides, in part, that if a falconer moves to Connecticut and does not have a falconry permit within a period of ninety days, the raptor shall be transferred to a person or organization authorized to possess such species. It is unclear from the provisions of the regulation who shall transfer the raptor and whether such falconer may regain possession of such raptor at a later point in time if such falconer subsequently obtains a falconry permit.	Section 26-67e-3(f) has been determined to be unnecessary and therefore deleted.
Section 26-67e-6(b)(1)(B), the proposed regulation provides, in part, that if the resident apprentice applicant is less than eighteen years of age, the parent or legal guardian is required to accept responsibility for the falconer's activities. It is unclear from this provision whether the falconer or the parent or legal guardian would be responsible for any violation of the general statutes relating to such falconry activity or whether such provision is only intended to apply to any potential civil liability that may arise from such falconry activities.	Section 26-67e-6(b)(1)(B) regarding parental responsibility has been determined to be unnecessary and therefore deleted.
Section 26-67e-6(c)(1)(B), the proposed regulation provides, in part, that if the applicant for a general class permit is less than eighteen years of age that the parent or legal guardian is required to accept responsibility for the falconer's activities. It is unclear from this provision whether the falconer or the parent or legal guardian would be responsible for any violation of the general statutes relating to such falconry activity or whether such provision is only intended to apply to any potential civil liability that may arise from such falconry activities.	Section 26-67e-6(c)(1)(B) regarding parental responsibility has been determined to be unnecessary and therefore deleted.
Section 26-67e-7(b)(3), the proposed regulation requires the sponsor to "provide training in the relevant wildlife statutes and regulations". This wording is unclear because	Section 26-67e-7(b)(3) has been revised to read as follows: <u>"provide training as described in the regulations in 50 CFR 21 and sections 26-67e-1 through 26-67e-18 of the</u>

it does not specify which wildlife statutes and regulations are relevant and whether such statutes and regulations are federal or state, or both.	<u>Regulations of Connecticut State Agencies</u> and oversee the care, maintenance, and training of the apprentice's raptor”
Section 26-67e-14(d), the proposed regulation requires copies of all electronic submissions made pursuant to subsection (b) of the section to be retained for a period of at least five years from the date of transfer or loss of the raptor. However, subsection (b) of the section does not appear to contemplate the electronic submission of any information, as it requires notifications in writing to the commissioner. This provision and subsection (b) should be clarified and made consistent in order to indicate what, if any, submissions may be made electronically to the commissioner or any other regulatory agency.	Section 26-67e-14(d) has been revised by deleting the word “electronic” in the first line.
Section 26-67e-18, the proposed regulation requires the reporting of the injuring of a wild bird during trapping, pursuant to section 26-67e-14. However, section 26-67e-14 does not require such reporting. Accordingly, this provision and section 26-67e-14 should be made consistent regarding the requirement to report the injuring of a wild bird during trapping.	Section 26-67e-18 has been revised to read as follows: “ <u>(8) any injury of a wild bird.</u> ”
Section 26-67e-18(f)(3), the proposed regulation requires the falconer to be responsible for "all liability associated with conservation education activities undertaken." The intended scope of such liability is unclear. As currently written, the falconer could be responsible for conservation education activities that are not directly related to the presentation of the falcon. This provision should be clarified to explicitly state the liability that the falconer will be responsible for undertaking when engaging in a public presentation of the falcon for conservation education purposes.	Section 26-67e-18(f)(3) has been determined to be unnecessary and therefore deleted.
Section 26-67e-18(h), the proposed regulation prohibits a falconer from using a falconry raptor for "commercial entertainment". The term "commercial entertainment" is not defined and therefore it is unclear if the prohibition is intended to prohibit the falconer from benefitting monetarily from the use of the falcon or to prohibit any other person from benefitting monetarily from the use of the falcon.	Section 26-67e-18(h) has been revised to read as follows: “ <u>(h) A falconer may, without compensation, allow photography, filming or other such uses of a falconry raptor to make movies or other forms of information on the practice of falconry, or the biology, ecological roles or conservation needs of a raptor and another migratory bird. At no time may a falconer, or any other person, benefit monetarily from the use of a falconry raptor.</u> ”
Section 26-67e-18(i)(3), the proposed regulation requires the raptor to be released, returned to the rehabilitator or transferred to the falconer's falconry permit within "180 days". However, the regulation does not specify from	Section 26-67e-18(i)(3) has been revised to read as follows: “ <u>(3) a raptor shall be released, returned to the rehabilitator, or transferred to the falconer’s falconry permit not later than 180 days after receipt of the raptor from the</u>

what event such 180 day period is measured. This provision should be clarified to indicate if such 180 days runs from the grant of the rehabilitator's permission, the transfer of such raptor to the falconer, or some other event. Additionally, the phrase "within 180 days" should be "not later than 180 days after" the trigger event or events.	<u>rehabilitator."</u>
<i>Technical Corrections</i>	
Section 26-67e-1(a)(2), " <u>for uniquely identifying</u> " should be " <u>used to uniquely identify</u> ", for clarity.	The recommended revision has been made.
Section 26-67e-1(7), " <u>who</u> " should be inserted after "and", for clarity.	The recommended revision has been made.
Section 26-67e-1(12), "sterile or" should be inserted before "unable", to accurately reflect the wording of the existing regulation.	The recommended revision has been made.
Section 26-67e-1(18), " <u>means bird as defined</u> " should be " <u>has the same meaning, as provided</u> ", for proper form.	The recommended revision has been made.
Section 26-67e-3 (a)(5), "in writing," should be inserted after "certify," to accurately reflect the wording of the existing regulation.	The recommended revision has been made.
Section 26-67e-3(a)(7), ", in writing," should be inserted after "certify" to accurately reflect the wording of the existing regulation.	The recommended revision has been made.
Section 26-67e-3(b)(4) and (b)(6), "in writing," should be inserted after "certify," to accurately reflect the wording of the existing regulation.	The recommended revision has been made.
Section 26-67e-3(f), in the third line " <u>a</u> " should be inserted before " <u>person</u> ", for clarity, and in the fourth line, " <u>that</u> " should be " <u>such</u> ", for clarity.	The recommended revision has been made.
Section 26-67e-6, "(b) Apprentice class." should be "(b) <u>Resident</u> [Apprentice] <u>apprentice</u> class.", for consistency.	The recommended revisions have been made.
Section 26-67e-6(b)(1)(E), a space should be inserted after " <u>13</u> ", for proper form.	The recommended revision has been made.
Section 26-67e-6(b)(2), "a" should be "any" to accurately reflect the wording of the existing regulation.	The recommended revision has been made.
Section 26-67e-6(b)(4), " <u>on humans</u> " should be deleted as unnecessary.	The recommended revision has been made.

Section 26-67e-8(a), in the last line, " <u>within the previous five years</u> " should be " <u>during the five year period prior to such application</u> ", for clarity.	The recommended revision has been made.
Section 26-67e-8(b), in line 6, " <u>within the previous ten years</u> " should be " <u>during the ten year period prior to such application</u> ", for clarity.	The recommended revision has been made.
Section 26-67e-9(b), " <u>as defined in this section</u> " should be " <u>as described in this section</u> ", for accuracy.	The recommended revision has been made.
Section 26-67e-12(a)(3)(B), in the third line, " <u>them</u> " should be " <u>the temporary care provider</u> ", for clarity.	The recommended revision has been made.
Section 26-67e-13(a)(2), in the first line, " <u>is that</u> " should be deleted, for clarity.	The recommended revision has been made.
Section 26-67e-13(a)(3), in the second line, a comma should be inserted after " <u>50 CFR 21.29(c)</u> ", to accurately reflect the wording of the existing regulation.	The recommended revision has been made.
Section 26-67e-13(c), in the second line, " <u>such bird will be counted</u> " should be " <u>such bird shall be counted</u> " and " <u>is at the discretion</u> " should be " <u>shall be at the discretion</u> ", in accordance with the committee's directive concerning mandates. Also, in the third line, " <u>prior</u> " should be inserted before " <u>approval</u> ", a period should be inserted after " <u>commissioner</u> " and " <u>at the commissioner's sole discretion prior to the transfer</u> " should be deleted as unnecessary.	The recommended revisions have been made.
Section 26-67e-14(b), " <u>A person</u> " should be " <u>Any person</u> ", for accuracy and " <u>within five days</u> " should be " <u>not later than five days after any of the following events</u> ", for clarity.	The recommended revisions have been made.
Section 26-67e-14(h)(4), " <u>replacement a raptor</u> " should be " <u>replacement raptors</u> ", for clarity.	The recommended revision has been made.
Subsections 26-67e-17(c), the provisions of subsection (c) have broad application and should be located in a different section of the proposed regulation, such as section 26-67e-18.	The recommended revision has been made.
Section 26-67e-18(a)(1), " <u>a raptor currently or previously held for falconry</u> " should be " <u>a raptor that is or that was held for falconry</u> ", for clarity.	The recommended revision has been made.
Section 26-67e-18(c), in the first line " <u>is responsible</u> " should be " <u>shall be responsible</u> ", in accordance with the	The recommended revisions have been made.

committee's directive concerning mandates and in the third line " 26-67e(14) " should be "26-67e-14", for proper form and in the fourth line " <u>it can be transferred</u> " should be " <u>it may be transferred</u> ", for clarity.	
Subsections 26-67e-18(e), in the first line, " <u>acceptable</u> " should be " <u>accepted</u> ", for clarity.	The recommended revision has been made.
Section 26-67e-18(i)(1), the provision should be rewritten as follows, for clarity: "(1) Prior to the transfer of any raptor for such purposes, the rehabilitator provides to the commissioner a letter or form that identifies the raptor and indicates such rehabilitator's permission for the falconer to assist in the rehabilitation and care of such raptor:"	The recommended revision has been made.
Section 26-67e-18(i)(2), in the second line, the comma should be deleted, for proper form.	The recommended revision has been made.
Section 26-67e-18(j), throughout the subsection, " <u>abatement</u> " should be " <u>nuisance wildlife abatement</u> ", for clarity.	The recommended revisions have been made.
Section 26-67e-18(j)(1), " <u>Connecticut Nuisance Wildlife Control Operator's License</u> " should be " <u>nuisance wildlife control operator's license</u> ", for proper form.	The recommended revision has been made.